IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7461 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUNIL KUMAR SHAH

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 7461 of 1999
MR PH PATHAK for Petitioner No. 1
MR J.C.Sheth for Mr. UM SHASTRI for
Respondent No. 1-2
RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE KSHITIJ R.VYAS
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 15/01/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE KSHITIJ R.VYAS)

1. The petitioner was appointed as a bunglow-peon in 1996 and was granted temporary status in December, 1997. It is the case of the petitioner that he has worked continuously upto 1999. The services of the petitioner came to be terminated on 13.1.99. The petitioner challenged the said order before the Central Administrative Tribunal, Ahmedabad. In reply to the application, the respondent-railway authorities in para 11 has raised dispute regarding jurisdiction of the Tribunal to entertain and try the present application. After raising the dispute, it is submitted that the respondents have fully applied with the provisions of Sec. 25(F) of the Industrial Disputes Act, 1947 and the order of termination is legal and proper. The applicant has been paid the amount of retrenchment compensation as well as notice pay) along with the order of termination and therefore the impugned order is legal and proper.

2. Learned counsel Mr.Pathak appearing for the petitioner submitted that the Tribunal could not have decided the application especially when it was pointed out that it has no jurisdiction. He was submitted that the services of the petitioner are terminated without following the principle of last come first go and therefore there is a breach of the provisions of Sec. 25(G) and (H) of the Industrial Disputes Act. It is further submitted that the respondents have not followed the provisions of Sec. 25(F) by not paying adequate retrenchment compensation. We could have rejected the aforesaid submissions on jurisdiction on the short ground that it was petitioner who moved the Tribunal and allowed the Tribunal to proceed further and having lost in the proceedings, now cannot be permitted to challenge the jurisdiction of the Tribunal.

3. However, the Tribunal in the instant case decided the question under Sec. 25(G),(H) and (F) of the Industrial Disputes Act. and has also gone into the questions about last come first go and retention of juniors by observing that no relief can be granted to the petitioner without joining the juniors in the proceedings as the same would effect their interest adversely. In our opinion, the Administrative Tribunal has no jurisdiction to inquire into the grievance in matters covered by the Industrial Disputes Act. Where the rights and obligations are created under the said Act, the only

remedy is to approach the Coram created under the said Act. The Administrative Tribunal cannot travel beyond the four corners of Administrative Tribunal Act. In any case, it could not have inquired into the grievances in the matter covered by the Industrial Disputes Act. We are supported with our reasonings by the decisions rendered by the High Court of Himachal Pradesh in Himachal Pradesh Agro Industries Corporation V/s Raj Kumar and others reported in 2002(II) L.L.J. Page 861. In this view of the matter, without deciding the matter on merits, we allow the petition on the question of jurisdiction only by holding that the Administrative Tribunal has no jurisdiction to decide the application and the proper remedy for the petitioner is to approach the Industrial Court. Needless to say that as and when the Industrial Court is approached, the same will decide the matter independently on the material available to it on all available contentions and without, in any manner, being influenced by the findings recorded by the Administrative Tribunal. Rule is made absolute with no order as to costs to the aforesaid extent only.

(K.R.VYAS, J)

(SHARAD D DAVE, J)

srilatha